

BEFORE THE ARIZONA MEDICAL BOARD

In the Matter of

Case No. MD-09-0864A

DAVID PAUL BROWN, M.D.

Holder of License No. 33003

For the Practice of Allopathic Medicine

In the State of Arizona.

**ORDER FOR LETTER OF REPRIMAND
AND PROBATION AND CONSENT TO
SAME**

David P. Brown, M.D. ("Respondent") elects to permanently waive any right to a hearing and appeal with respect to this Order for Letter of Reprimand and Probation; admits the jurisdiction of the Arizona Medical Board ("Board"); and consents to the entry of this Order by the Board.

FINDINGS OF FACT

1. The Board is the duly constituted authority for the regulation and control of the practice of allopathic medicine in the State of Arizona.

2. Respondent is the holder of license number 33003 for the practice of allopathic medicine in the State of Arizona.

3. The Board initiated case number MD-09-0864A after receiving notification from a pharmacy that it received a prescription written by Respondent in which the address on the prescription had been crossed out.

4. Specifically, patient GJ presented to the pharmacy to fill a prescription written by Respondent. The pharmacist noted that the address on the prescription had been crossed out. The following day, Respondent contacted the pharmacy and stated that he had written the prescription. During the Board's investigation, Respondent stated that he wrote the prescription and crossed out the address as he was changing his practice location. Respondent provided Staff with his new practice address and telephone number; however, Staff contacted the practice and was informed that Respondent did not practice

1 at that facility. Subsequently, correspondence regarding the investigation was returned to
2 the Board's office. Staff telephoned Respondent, and requested that he provide current
3 home and practice addresses. Respondent failed to provide current address information.
4 Additionally, Staff subpoenaed Respondent to appear on August 24, 2009 for an
5 investigational interview. Respondent did not appear for the interview and the subpoena
6 was returned to the Board as undeliverable.

7 5. On September 9, 2009, Staff obtained a pharmacy survey that showed
8 Respondent wrote large quantities of narcotic medications from January 2008 through
9 September 2009 for patient TG. Specifically, Respondent prescribed early refills and
10 escalated doses of Oxycodone and Hydrocodone for TG at levels that exceeded the
11 recommended dosage. Additionally, Respondent repeated the prescribing at intervals that
12 have no emergent clinical basis.

13 6. The standard of care requires a physician to avoid prescribing massive
14 amounts of narcotics to an individual over a protracted period of time.

15 7. Respondent deviated from the standard of care because he prescribed
16 excessive amounts of narcotics to TG over a protracted period of time.

17 8. Respondent's excessive prescribing could have led to overdose and/or
18 perpetuation of addictive behavior.

19 **CONCLUSIONS OF LAW**

20 1. The Board possesses jurisdiction over the subject matter hereof and over
21 Respondent.

22 2. The conduct and circumstances described above constitute unprofessional
23 conduct pursuant to A.R.S. § 32-1401(27)(q) - ("[a]ny conduct or practice that is or might
24 be harmful or dangerous to the health of the patient or the public."), A.R.S. § 32-1401
25 (27)(r) - ("[v]iolating a formal order, probation, consent agreement or stipulation issued or

1 entered into by the board or its executive director under the provisions of this chapter."),
2 and A.R.S. §32-1401(27)(s) - ("[v]iolating or attempting to violate, directly or indirectly, or
3 assisting in or abetting the violation of or conspiring to violate any provision of this
4 chapter."). The corresponding act of unprofessional conduct is in A.R.S. § 32-1435(A) -
5 ("[e]ach active licensee shall promptly and in writing inform the board of the licensee's
6 current residence address, office address and telephone number and of each change in
7 residence address, office address or telephone number that may later occur."). The
8 conduct and circumstances described above also constitute unprofessional conduct
9 pursuant to A.R.S. §32-1401(27)(dd) - ("[f]ailing to furnish information in a timely manner to
10 the board or the board's investigators or representatives if legally requested by the
11 board").

12 3. If the Board finds that it can take rehabilitative or disciplinary action without
13 the presence of the doctor at a formal interview it may enter into a consent agreement with
14 the doctor to limit or restrict the doctor's practice or to rehabilitate the doctor in order to
15 protect the public and ensure the doctor's ability to safely engage in the practice of
16 medicine. A.R.S. § 32-1451(F).

17 ORDER

18 IT IS HEREBY ORDERED THAT:

- 19 1. Respondent is issued a Letter of Reprimand.
- 20 2. Respondent is placed on probation for a period of **two** years with the
21 following terms and conditions:
 - 22 a. Respondent shall complete the PACE prescribing course within 6
23 months of this Order at his own expense.
 - 24 b. Respondent shall participate in quarterly chart reviews which may be
25 based upon pharmacy surveys.

1 c. Respondent shall employ Affiliated Monitors to monitor all terms of the
2 probation, including completion of the PACE course, conduct the
3 reviews and report results to the Board. Respondent shall pay the
4 expenses of Affiliated Monitors and all chart reviews and fully cooperate
5 with any requests made by Affiliated Monitors in conducting the chart
6 reviews.

7 3. Tolling

8 In the event Respondent should leave Arizona to reside or practice outside
9 the State or for any reason should Respondent stop practicing medicine in Arizona,
10 Respondent shall notify the Executive Director in writing within ten days of departure and
11 return or the dates of non-practice within Arizona. Non-practice is defined as any period of
12 time exceeding thirty days during which Respondent is not engaging in the practice of
13 medicine. Periods of temporary or permanent residence or practice outside Arizona or of
14 non-practice within Arizona, will not apply to the reduction of the probationary period.

15 4. This Order is the final disposition of case number MD-09-0864A.

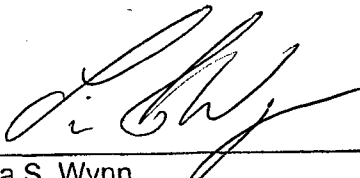
16 DATED AND EFFECTIVE this 14TH day of APRIL, 2010.

18 ARIZONA MEDICAL BOARD

19 (SEAL)



By



Lisa S. Wynn,
Executive Director

CONSENT TO ENTRY OF ORDER

1. Respondent has read and understands this Consent Agreement and the stipulated Findings of Fact, Conclusions of Law and Order ("Order"). Respondent acknowledges he has the right to consult with legal counsel regarding this matter.

2. Respondent acknowledges and agrees that this Order is entered into freely and voluntarily and that no promise was made or coercion used to induce such entry.

3. By consenting to this Order, Respondent voluntarily relinquishes any rights to a hearing or judicial review in state or federal court on the matters alleged, or to challenge this Order in its entirety as issued by the Board, and waives any other cause of action related thereto or arising from said Order.

4. The Order is not effective until approved by the Board and signed by its Executive Director.

5. All admissions made by Respondent are solely for final disposition of this matter and any subsequent related administrative proceedings or civil litigation involving the Board and Respondent. Therefore, said admissions by Respondent are not intended or made for any other use, such as in the context of another state or federal government regulatory agency proceeding, civil or criminal court proceeding, in the State of Arizona or any other state or federal court.

6. Upon signing this agreement, and returning this document (or a copy thereof) to the Board's Executive Director, Respondent may not revoke the consent to the entry of the Order. Respondent may not make any modifications to the document. Any modifications to this original document are ineffective and void unless mutually approved by the parties.

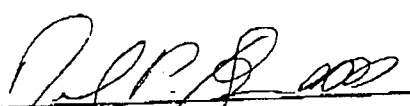
1 7. This Order is a public record that will be publicly disseminated as a formal
2 disciplinary action of the Board and will be reported to the National Practitioner's Data
3 Bank and on the Board's web site as a disciplinary action.

4 8. If any part of the Order is later declared void or otherwise unenforceable, the
5 remainder of the Order in its entirety shall remain in force and effect.

6 9. If the Board does not adopt this Order, Respondent will not assert as a
7 defense that the Board's consideration of the Order constitutes bias, prejudice,
8 prejudgment or other similar defense.

9 10. Any violation of this Order constitutes unprofessional conduct and may result
10 in disciplinary action. A.R.S. § 32-1401(27)(r) ("[v]iolating a formal order, probation,
11 consent agreement or stipulation issued or entered into by the board or its executive
12 director under this chapter") and A.R.S. § 32-1451.

13 11. Respondent acknowledges that, pursuant to A.R.S. § 32-2533(E), he cannot
14 act as a supervising physician for a physician assistant while his license is under,
15 restriction.

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17 
18 David P. Brown, M.D.

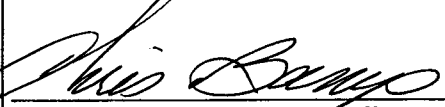
DATED: 3/9/10

19
20 EXECUTED COPY of the foregoing mailed
21 this 5th day of April, 2010 to:

22 Shaleen D. Brewer, Esq.
23 Cheifetz, Iannitelli, Marcolini, P.C.
24 1850 North Central Ave., 19th Floor
25 Phoenix, Arizona 85004
Attorney for Respondent

ORIGINAL of the foregoing filed
this 5th day of April, 2010 with:

1 Arizona Medical Board
2 9545 E. Doubletree Ranch Road
3 Scottsdale, AZ 85258

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5 Arizona Medical Board Staff
6 #732513
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